

EXECUTIVE CHAMBERS

HONOLULU

May 6, 2004

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2395

Honorable Members
Twenty-Second Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2395, entitled "A Bill for an Act Relating to Information Practices."

The purpose of this bill is to prohibit disclosure of booking records of Hawaii Convention Center licensees until ten days after the event has occurred or when it is canceled. The prohibition would apply when requested by a potential licensee if disclosure could reveal confidential business information or result in the loss of a convention center booking. Booking information could, however, be disclosed to the Legislature.

This bill is objectionable because, first, it would significantly change the public's ability to access records maintained by the Hawaii Tourism Authority (HTA). Presently, under the Uniform Information Practices Act (Modified), chapter 92F, Hawaii Revised Statutes, commonly referred to as the "UIPA," the HTA's records are presumed to be public, and most of the records that could be withheld under this bill are now available upon request by members of the public.

Second, existing law allows the HTA to withhold records that must be confidential in order to avoid the frustration of a legitimate government function. Therefore, confidential business information that is submitted by convention center licensees may be withheld under existing law if the facts warrant.

Third, one of the primary purposes of the Uniform Information Practices Act is to open government processes to public scrutiny by allowing public access to government records.

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Contracts between convention center licensees and the HTA may contain incentives in the form of discounts and subsidies. The public's right to scrutinize HTA's operation and management of the Hawaii Convention Center will be greatly restricted if the public is denied timely access to the records.

Fourth, nondisclosure of records would require only a finding that disclosure "may" result in loss of a convention center booking or disclosure of confidential information, without any determination that this would actually be the case or that the reasons provided outweigh the advantages of full disclosure.

Fifth, a licensee's name could be withheld under this bill even though such information is not normally considered to be confidential business information or proprietary information. Controversial organizations might, therefore, schedule conventions at the Hawaii Convention Center without the public being aware of the fact and having an opportunity to object. By withholding licensees' names until after an event has occurred, members of the public would also be deprived of the ability to review information about an upcoming convention to, for example, compete with exhibitors, market products or services in connection with the event, or simply to examine how well the Hawaii Convention Center is doing in terms of advance bookings.

For the foregoing reasons, I am returning Senate Bill No. 2395 without my approval.

Respectfully,

LINDA LINGLE
Governor of Hawaii